



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

**Joshua M. Kopelman
Srinivas Balijepalli
Christopher Fralic**

Examiner: **G. O'Connor**

Application No.:
09/935,287 (Conf. No. 9679)

Group Art Unit: **3627**

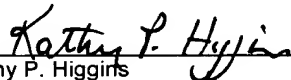
Filed: **August 22, 2001**

Docket No.: **2043.047US4**
(S&L Docket No. P23,305-A USA)

For: **METHOD AND APPARATUS FOR
LISTING GOODS FOR SALE**

CERTIFICATE OF MAILING

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Kathy P. Higgins

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REPLY BRIEF RESPONSIVE TO EXAMINER'S ANSWER

Dear Sir/Madam:

This Reply Brief is responsive to the Examiner's Answer mailed April 6, 2006.

This Reply Brief is submitted within two months from the date of mailing of the Examiner's Answer in compliance with 37 CFR §41.41. The Commissioner is hereby authorized to charge any additional fees in connection with this appeal/Reply Brief to Deposit Account No. 19-5425.

REMARKS

The Examiner's Answer characterizes the Lalonde reference and Applicants' arguments in various ways that are omitted here for brevity. In partial response thereto, the undersigned takes great exception to the Examiner's characterization of certain arguments as "disingenuous." It is emphasized that Applicants' arguments are factually based, reasonable, and presented in good faith, as emphasized below.

I. ARGUMENT

This essence of this appeal is essentially a single point of disagreement between the Applicant and the Examiner. The Examiner asserts that the Lalonde reference teaches the identification of a seller's good to a system by sending the system a series of tones generated by the depression of telephone keys; the Applicant asserts that Lalonde teaches basic function control requests comprising a tone issued by depression of a telephone key, but that the tone does NOT identify a particular seller's good.

Generally, the application relates to the use of a telephone to provide information about a good to a computerized system that will present the good for sale in a website-based electronic marketplace, etc. Information about a seller's good is provided to the system in a particular manner, namely, by the seller's depression of keys of the telephone to provide a sequence of tones that identifies the seller's good, e.g. to provide tones corresponding to depression of keys 123456789 to identify a good recognizably identified by UPC code 123456789. A seller may list goods for sale on a website without the need for a desktop personal computer, etc. making it convenient to list goods for sale from a location where no such computer is present, such as a warehouse, garage, attic, basement or other location where old books, etc. may be stored. Instead, the seller needs only a telephone. Page 4, lines 13-16.

One example can be found in independent claim 1, which recites "receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone".

Another example is found in independent claim 23, which recites "receiving from a seller a series of tones comprising tones generated by depressing keys of a telephone in a sequence corresponding to an alphanumeric sequence of a standard identification code", such as a UPC or ISBN code. Claim 23 further recites "retrieving from the memory information associated with the standard identification code, the information relating to the good; and presenting the good for sale on a website to display the information retrieved from the memory using the standard identification code."

Lalonde is the sole cited reference. Lalonde discloses a computer-based system and method by which a classified ad database is created and/or used. The system may include an interactive voice response (IVR) system. The IVR is a computer specialized for storing digital audio scripts, and for playing back such scripts in response to digital or touchtone inputs. Col. 3, lines 64-66. The IVR can also convert a message from a database into voice form by concatenating individual voice segments into an output voice message. Col. 4, lines 17-21. Accordingly, a caller can interact with the IVR system by pressing designated keys on the caller's telephone to cause playback of pre-recorded digital audio scripts and/or to cause routing of a call. Col. 3, lines 64-66. The IVR system converts text output data into a voice message so that buyers can listen to ads via a telephone. See Abstract.

While Lalonde's IVR/system may receive tones generated by depression of keys of a telephone, such information is not information identifying a good. Instead, the tones are basic function control requests of a conventional type (e.g. a tone generated by pressing the "1" key in response to a voice prompt "If you would like to do _____,

press 1 now . . ."). In response, the system routes the call/control accordingly. See Lalonde, col. 5, lines 46-51.

The Examiner has not provided, in any Office Action, any citation to any specific portion of Lalonde that teaches or suggests that touch tones generated by depressing keys of a telephone are used to convey to a computerized system information identifying/describing a good that a seller wishes to sell. The portion of the Examiner's argument believed most relevant to this point relates to the Examiner's statement that Lalonde states that "this step" could be automated using an IVR, and that thus Lalonde discloses "a fully automated system for gathering ad information." See Examiner's Answer, page 8, lines 1-7.

As discussed in Appellants' Brief, Lalonde is unclear, and the Examiner and Appellants have differing views, as to what "this step" is. The Examiner cites a portion of col. 6, lines 3-18, which discusses the step of block 116 in Fig. 2; there is no step in Fig. 2 that corresponds to the "step" according to the Examiner's interpretation. Nevertheless, even the cited portion of Lalonde does not teach or suggest the claimed embodiment. As acknowledged by Lalonde, use of a human operator is preferable, and use of the IVR instead of the human operator would be more complex, due to "the amount of variability involved in placing an ad, explaining to the seller the options, etc." In contrast, the claimed embodiment simplifies operation. The cited portion does not teach or suggest anything more than the possibility that certain functions performed by the human operator could be automated using an IVR. Lalonde does not teach how the IVR would do so, and specifically, does not teach the claimed embodiment. In the absence of a teaching in Lalonde of how an IVR could be used to replace a human operator, it could be supposed that the system could be configured to provide voice prompts presenting a litany of choices and requesting the user to select options presented by the IVR, rather than the human operator, to provide "information relating

to the ad" (col. 6, lines 7-10), such as "if you wish to place a For Sale ad, press 1, if you wish to place a full page ad, press 2, if you wish to place an ad for two weeks, press 3, if you wish to place an ad in our special weekend edition, press 4", etc. At most, these are basic control commands/selections. Nothing in Lalonde, however, teaches or suggests use of a series of tones identifying a good, particularly tones identifying a UPC or ISBN code of a good, or tones generated by depressing keys of a telephone in a sequence corresponding to an alphanumeric sequence of a standard identification code. The Examiner can only reach such a conclusion by impermissible hindsight.

III. BRIEF DISCUSSION OF SELECTED CLAIMED EMBODIMENTS

The discussion presented below emphasizes certain embodiments and distinctions, and supplements the arguments in Appellant's Brief.

Claim 1 recites "receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone. Nowhere in Lalonde is this taught or suggested.

Claims 3 further recites that "the series of tones comprises tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric sequence of a standard identification code." Nowhere in Lalonde is this taught or suggested.

Claim 4 recites that "the standard identification code is a universal product code." Nowhere in Lalonde is this taught or suggested.

Claim 5 recites that "the standard identification code is an international standard book number." Nowhere in Lalonde is this taught or suggested.

Claim 6 requires "retrieving information relating to the good from a database; wherein said information is used to present the good for sale." Nowhere in Lalonde is this taught or suggested. Lalonde is devoid of any disclosure of presenting a good for

sale using information provided by the seller and information related to the good that has been retrieved from a database, e.g. such as a pre-stored book cover that would not be provided by a seller over the phone. See page 8, lines 1-4.

Claim 8 recites that the information comprising a series of tones generated by depression of keys of a telephone further "identifies a characteristic of the good in addition to an identity of the good, the characteristic of the good being incapable of being discerned from the standard identification code, the identity of the good being discernable from the standard identification code." Nowhere in Lalonde is this taught or suggested.

With respect to claims 23-31, it is noted that the Examiner has not expressed in substantive detail any rejections of claims 23-31. The recitations of those claims are not addressed in the Final Action, or elsewhere. Instead, the Examiner merely states "Claims 1-13 and 21-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lalonde et al. (5,283,731)." See Examiner's Answer, page 3; Final Action, paragraph 4. Independent claim 23 is directed to a computer-implemented method including "receiving from a seller a series of tones comprising tones generated by depressing keys of a telephone in a sequence corresponding to an alphanumeric sequence of a standard identification code; adding the good to a virtual inventory of goods being offered for sale; retrieving from the memory information associated with the standard identification code, the information relating to the good; and presenting the good for sale on a website to display the information retrieved from the memory using the standard identification code." Nowhere in Lalonde is this taught or suggested. In particular, Lalonde neither teaches nor suggests any use of any standard identification code, or any display on a website. Further, Lalonde neither teaches nor suggests retrieving from the memory information associated with the


standard identification code, and presenting the good for sale on a website to display the information retrieved from the memory using the standard identification code.

Claim 32 further recites that "presenting the good for sale" includes "displaying via the website information provided by the seller" as well as "displaying via the website additional information not provided by the seller, the additional information being retrieved from a database, the additional information being stored in the database in association with the standard identification code provided by the seller." Thus, the standard identification code provided by the seller is used to identify certain information about the seller's good, and that certain information is displayed on the website when presenting the good for sale in addition to any information provided by the buyer. The standard identification code provided by the seller provides a reference for retrieving information pertinent to the seller's good. Nowhere in Lalonde is this taught or suggested.

CONCLUSION

Appellants have shown in the arguments presented herein and elsewhere that the cited art fails to teach or suggest all claim limitations and/or provide the requisite motivation. Appellants, therefore, respectfully request that this Board reverse the Examiner's rejections and allow claims 1-13 and 21-32.


Respectfully submitted,


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Date: June 5, 2006

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In Re Application Of: **Joshua M. Kopelman**
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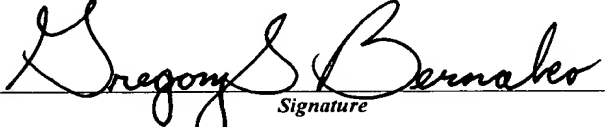
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Reply Brief Response to Examiner's Answer dated April 6, 2006 in triplicate.

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Signature

Dated: **June 5, 2006**

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